

UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS

SEP 14 2004  
U.S. DISTRICT COURT  
DISTRICT OF MASSACHUSETTS

WEI YE )  
Petitioner )  
v. )  
LUIS SPENCER )  
Respondent )

CIVIL ACTION  
NO. 04-11590-NG

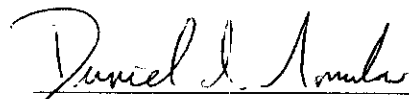
**RESPONDENT'S SUPPLEMENTAL APPENDIX  
TO MOTION TO DISMISS PETITION FOR WRIT OF HABEAS CORPUS**

The respondent files the following documents as his supplemental appendix to his Motion to Dismiss Petition for Writ of Habeas Corpus:

1. Docket Sheets, *Commonwealth v. Wei Ye*, 1998 MICR No. 00108; and
2. Docket Sheets, *Wei Ye v. Commonwealth*, No. SJ-2002-0059.

Respectfully submitted,

THOMAS F. REILLY  
ATTORNEY GENERAL

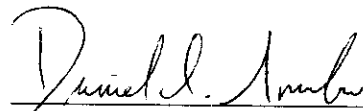


Daniel I. Smulow, BBO 641668  
Assistant Attorney General  
Criminal Bureau  
One Ashburton Place  
Boston, Massachusetts 02108  
(617) 727-2200 ext. 2949

Dated: September 13, 2004

**CERTIFICATE OF SERVICE**

I hereby certify that a true copy of the above document was served on Stephen B. Hrones, Esq., Hrones & Garrity, Lewis Wharf - Bay 232, Boston MA, 02110, by first class mail, postage prepaid, on September 13, 2004.

A handwritten signature in cursive script, appearing to read "Daniel I. Smulow", is written over a horizontal line.

Daniel I. Smulow

Commonwealth of Massachusetts

## MIDDLESEX SUPERIOR COURT

Case Summary

Criminal Docket

08/19/2004

11:13 AM

**MICR1998-00108**  
**Commonwealth v Ye, Wei H**

<b>File Date</b>	01/29/1998	<b>Status</b>	Disposed (appeal denied) (dapden)
<b>Status Date</b>	06/15/2004	<b>Session</b>	4 - Crim 4 (8B Cambridge)
<b>Jury Trial</b>	Yes	<b>Origin</b>	I - Indictment
<b>Lead Case</b>			

<b>Trial Deadline</b>	02/04/1999	<b>Deadline Status</b>	Deadline active since return date	<b>Status Date</b>	02/05/1998
<b>Weapon</b>		<b>Custody Status</b>		<b>Start Date</b>	
<b>Arraignment</b>	02/04/1998	<b>Substance</b>		<b>Prior Record</b>	Unknown
		<b>PTC Deadline</b>		<b>Pro Se Defendant No</b>	

**OFFENSES**

Num	Offense	Code	Status	Status Date
1	10/31/1997 Home invasion	265:018C.1	Guilty verdict	10/23/1998
2	10/21/1997 Robbery, armed, masked/disguised	265:017.2	Guilty verdict	10/23/1998
3	10/31/1997 Kidnap	265:026.1	Guilty verdict	10/23/1998
4	10/31/1997 Kidnap	265:026.1	Guilty verdict	10/23/1998
5	10/31/1997 Kidnap	265:026.1	Guilty verdict	10/23/1998
6	10/31/1997 Assault, dangerous weapon	265:015B:b	Guilty verdict	10/23/1998
7	10/31/1997 Assault, dangerous weapon	265:015B:b	Guilty verdict	10/23/1998
8	10/31/1997 Assault, dangerous weapon	265:015B:b	Guilty verdict	10/23/1998
9	10/31/1997 Assault & battery	265:013A.2	Guilty verdict	10/23/1998
10	10/31/1997 Assault & battery	265:013A.2	Guilty verdict	10/23/1998
11	10/31/1997 Assault & battery	265:013A.2	Guilty verdict	10/23/1998

**PARTIES**

**Defendant**  
Wei H Ye  
Gender: Unknown  
Active 01/29/1998

**Private Counsel 057940**  
Thomas F Broderick  
8 Faneuil Hall Marketplace  
Boston, MA 02109  
Phone: 617-523-3649  
Withdrawn 02/19/1999

SA0001

**MICR1998-00108**  
**Commonwealth v Ye, Wei H**

**Plaintiff**

Commonwealth  
 Gender: Unknown  
 Active 01/29/1998

**Private Counsel 242860**

Stephen Hrones  
 Hrones & Garrity  
 Lewis Wharf Bay 232  
 Boston, MA 02110-3903  
 Phone: 617-227-4019  
 Fax: 617-227-3908  
 Active 02/19/1999 Notify

**District Atty's Office 561768**

Ann T McGonigle  
 Suffolk University Law School  
 120 Tremont Street  
 Boston, MA 02108-4977  
 Phone: 617-573-8558  
 Fax:  
 Withdrawn 09/10/1998

**District Atty's Office 567827**

Anne S Edwards  
 Mass Atty General's Office  
 200 Portland Street  
 3rd floor  
 Boston, MA 02114  
 Phone: 617-727-2200  
 Fax: 617-727-3076  
 Active 09/10/1998 Notify

**District Atty's Office 564031**

Eric R Barber-Mingo  
 Ruberto Israel & Weiner PC  
 100 North Washington Street  
 Boston, MA 02114-2128  
 Phone: 617-742-4200  
 Fax: 617-742-2355  
 Active 11/13/2001 Notify

**ENTRIES**

Date	Paper	Text
01/29/1998	1.0	Indictment returned
02/04/1998		Appearance of Commonwealth's Atty: McGonigle
02/04/1998		Appearance of Deft's Atty: Broderick
02/04/1998		Deft arraigned before Court(Judith A Cowin, Regional Administrative Justice)
02/04/1998		RE offense 1: Plea of not guilty
02/04/1998		RE offense 2: Plea of not guilty
02/04/1998		RE offense 3: Plea of not guilty
02/04/1998		RE offense 4: Plea of not guilty
02/04/1998		RE offense 5: Plea of not guilty
02/04/1998		RE offense 6: Plea of not guilty

**SA0002**

Commonwealth of Massachusetts  
**MIDDLESEX SUPERIOR COURT**  
 Case Summary  
 Criminal Docket

**MICR1998-00108**  
**Commonwealth v Ye, Wei H**

Date	Paper	Text
02/04/1998		RE offense 7: Plea of not guilty
02/04/1998		RE offense 8: Plea of not guilty
02/04/1998		RE offense 9: Plea of not guilty
02/04/1998		RE offense 10: Plea of not guilty
02/04/1998		RE offense 11: Plea of not guilty
02/04/1998		Bail set: \$25,000 Cash (Judith A Cowin, Regional Administrative Justice)
02/04/1998		Bail Warning Read In Open Court
02/04/1998		Continued until 3/3/98 PTC
02/04/1998		Reporter present: Barbara Marigliano
02/04/1998	2.0	Commonwealth Files Notice Of Discovery
02/04/1998	3.0	Commonwealth Files Statement Of The Case
02/09/1998	4.0	Mittimus 001 not recog. indictments returned with service
03/03/1998	5.0	Pre-trial conference report
04/02/1998		Continued until 04/23/98 Motion to Dism, 05/19/98 Motion to Suppress & 07/13/98 Trial
04/02/1998		Reporter present: Barbara Marigliano
04/02/1998	6.0	Motion For Discovery Of Grand Jury Minutes
04/24/1998	7.0	Motion by Deft: To Dismiss
04/24/1998		Motion (P#7) denied (Charles M Grabau, Justice)
04/24/1998	8.0	Commonwealth files Response To Defendant's Motion For Discovery II
05/13/1998	9.0	Request for Writ of Habeas Corpus issued to Middlesex County Jail (Cambridge) for 5/19/98
05/19/1998		Continued until 7/28/98 Trial
05/19/1998		Reporter present: Joan Cave
07/24/1998	10.0	Writ of Habeas Corpus issued to Middlesex County Jail (Cambridge) for 07/28/98
07/24/1998	11.0	Commonwealth Motion: To Continue
07/24/1998		Motion (P#11) allowed (Maria I Lopez, Justice)
09/10/1998		Request for Continuance Filed and Allowed (Lucie B Pasquale, CM)
09/10/1998		Appearance of Commonwealth's Atty: Edwards-Schultze
09/10/1998		Continued until 10/20/98 Trial
10/05/1998	12.0	Commonwealth Files Notice Of Discovery II
10/05/1998	13.0	Commonwealth files Potential List of Witnesses at Trial.
10/15/1998	14.0	Writ of Habeas Corpus issued to Middlesex County Jail (Cambridge) for 10/20/98
10/20/1998		sent to 8B
10/21/1998	15.0	Motion by Deft: To Order Sequestration of Witnesses during Trial Pursuant to Rule 21 of the MRCP, Filed in Court.
10/21/1998		Motion (P#15) allowed (Charles T Spurlock, Justice)
10/21/1998		Reporter present: Elizabeth Tyler
10/22/1998	16.0	Motion by Deft: For Required Finding of Not Guilty Pursuant to Rule 25 (a) of the Rules of Criminal Procedure, Filed in Court.
10/22/1998		Motion (P#16) denied (Charles T Spurlock, Justice)
10/22/1998		Trial Exhibits.
10/22/1998	17.0	001 thru 011:Verdict Slips.

SA0003

**MICR1998-00108**  
**Commonwealth v Ye, Wei H**

Date	Paper	Text
10/22/1998		Reporter present: Elizabeth Tyler
10/23/1998		After charge and before deliberation, Jurors #7-Wm. Fox and #14-Amy Meyerhoefer were withdrawn from panel, Ch.234A, S44 as amended, By the Court. (Charles T Spurlock, Justice)
10/23/1998		RE offense 1: Guilty verdict
10/23/1998		RE offense 2: Guilty verdict
10/23/1998		RE offense 3: Guilty verdict
10/23/1998		RE offense 4: Guilty verdict
10/23/1998		RE offense 5: Guilty verdict
10/23/1998		RE offense 6: Guilty verdict
10/23/1998		RE offense 7: Guilty verdict
10/23/1998		RE offense 8: Guilty verdict
10/23/1998		RE offense 9: Guilty verdict
10/23/1998		RE offense 10: Guilty verdict
10/23/1998		RE offense 11: Guilty verdict
10/23/1998		Bail revoked. Defendant committed into the custody of the Sheriff.
10/23/1998		Reporter present: Elizabeth Tyler
10/26/1998		001: Sentence-MCI Cedar Junction for a term not exceeding 30 yrs. & 1 dy or less than 30 yrs.. 002, 003, 004 & 005: Sentence-MCI C.J. for a term not exceeding 10 yrs & 1 dy or less than 10 yrs., these sentences to be served concurrently with the sentence imposed in 001. 006, 007 & 008: Sent. MCI C.J. not exceeding 5 yrs & 1 dy or less than 5 yrs., these sentences to be served concurrently with the sentence imposed in 001. (Charles T Spurlock, Justice)
10/26/1998		(001 thru 008) Mittimus issued to MCI Cedar Junction.
10/26/1998		Notified of right of appeal under Rule 64 (Appellate Division)
10/26/1998		Notified of right of appeal under Rule 65 (Appeal)
10/26/1998		Sentence credit given as per 279:33A: 351 days.
10/26/1998		009, 010 & 011: On file defendant not objecting (Charles T Spurlock, Justice)
10/26/1998		Attested copies of indictments sent to MCI Cedar Junction.
10/26/1998	18.0	Mittimus committing defendant into custody of Sheriff returned with service.
10/26/1998		Reporter present: Elizabeth Tyler
10/27/1998		Abstracts sent to the Criminal Information Bureau.
10/28/1998	19.0	Mittimus (001,002,003,004,005,006,007,008) MCI Cedar Junction returned with service
11/02/1998	20.0	Deft files Appeal from Sentence to MCI Cedar Junction.
11/12/1998		Copies of indictment, docket entries and mittimus sent to the Clerk of the Appellate Division.
11/12/1998	21.0	Defendant's notice of appeal and request for transcripts for appeal.
11/12/1998		Court Reporter Mary Leary is hereby notified to prepare one copy of the transcript of the evidence of 4/24/98-Motion to Dismiss..
		11/23/98-Order returned, sent to wrong address.
11/12/1998		Court Reporter Elizabeth Tyler is hereby notified to prepare one copy of the transcript of the evidence of 10/21, 22, 23 & 26/98-Trial &

SA0004

**MICR1998-00108**  
**Commonwealth v Ye, Wei H**

Date	Paper	Text
		Disposition.
11/12/1998		Defendant's request for copy of docket entries. (copy sent to defn.)
12/03/1998	22.0	Pro Se Motion by Deft: to Revoke or Revise Sentence with Supporting Affidavit.
03/31/1999		Court Reporter Barbara Urquhart is hereby notified to prepare one copy of the transcript of the evidence of 4/23/98 Motion to Dismiss (Grabau, J.).
04/14/1999		Appearance of Deft's Atty: Hrones
05/14/1999	23.0	Rescript rec'd from Appellate Division. (001) Ordered: that the judgment imposing said sentence be amended by substituting for said sentence, a sentence to MCI Cedar Junction, for not more that 25 yrs. or less than 20 yrs.; 0 days of said sentence be deemed to have been served, the term to be computed from the time when the appealed sentence commenced operation. (Robert J. Shone, Asst. Clerk)
05/14/1999	24.0	Rescript rec'd from Appellate Division. (002-008) Ordered: that the judgments imposing said sentences stand and that said appeal be and is hereby dismissed. (Robert J. Shone, Asst. Clerk)
06/07/1999	25.0	Warrant Returned MCI Cedar Junction
01/13/2000	26.0	Two sets, one volume in each set of the Transcript of Evidence delivered to the office of the Clerk of Courts this day. (April 23, 1998 Motion to Dismiss Hearing - Court Reporter, Barbara T. Urquhart)
01/13/2000	27.0	Two sets, four volumes in each set of the Transcript of Evidence delivered to the office of the Clerk of Courts this day. (October 21, 22, 23 and 26, 1998 Trial - Court Reporter, Elizabeth C. Tyler)
01/13/2000	28.0	Notice of assembly of record, Two sets of the Transcripts of Evidence, two certified copies of docket entries and a List of Exhibits sent to the Clerk of the Appeals Court this day.
01/13/2000		Notice of Assembly of Record sent to Martha Coakley, District Attorney and Attorney Hrones
01/19/2000	29.0	Appeals Court Notice of Entry: please note that the above-referenced case was entered in this Court on 1/13/00
09/25/2001	30.0	Rescript received Appeals Court or SJC: Appeals Court:SJC]; judgment affirmed
11/13/2001	31.0	Commonwealth's Motion for Return of Victim's Property
11/14/2001		Motion (P#31) allowed (Charles M. Grabau, Justice) certified copy to A.D.A. & copy to deft's atty.
12/19/2001		Note on P#31 from Richard Corazzini stateing: I Richard Corazzini Detective from Lexington Ma Police received brown enamel cabinet door (exhibit #2) from the court on 12-19-02 Signed Richard Corazzini
05/02/2002	32.0	Motion by Commonwealth: for Return of Cash Stolen from Victim (District Attorney Office to file Copy of this Motion with Spurlock, J Sitting in Suffolk)
05/13/2002	33.0	Notice of docket Entry and Judgement from the Supreme Judicial Court: This matter came before the Court Sosman, J presiding on a petition pursuant to GLc 211, S3 and upon consideration thereof, It is ORDERED the petition be and the same hereby is denied without a

SA0005

**MICR1998-00108**  
**Commonwealth v Ye, Wei H**

Date	Paper	Text
07/15/2002	33.0	hearing. By the Court, Sosman, J Motion (P#32) Allowed. (Spurlock, J.) Copy to ADA & both sides notified.
08/20/2002	34.0	Motion by Commonwealth: for Immediate Return of Cash Stolen from Victim
10/17/2002		Motion (P#34) Purusant to Judge Spurlocks Order of July 15, 2002 . the Commonwealths Motion is Allowed. (Charles Grabau , Regional Administration Justice)
10/30/2002	35.0	Motion by Commonwealth. to Amend Motion for Immediate Return of Cash Stolen from Victim
10/30/2002		Motion (P#35) allowed (Charles Grabau, Justice). Cash Totalling \$1308.00 Returned to the Victim Rha this Day
06/15/2004	36.0	Rescript received from SJC; judgment AFFIRMED It is ORDERED and ADJUDGED that the following entry of Judgment be and the same hereby is, made: "Judgment affirmed. by the Court (Spina, J.)



# Supreme Judicial Court and Appeals Court of Massachusetts

## Public Case Information


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[Lower Court Judge](#)

### SUPREME JUDICIAL COURT for the Commonwealth Case Docket

**WEI H. YE vs. COMMONWEALTH**  
SJC-08785

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#### CASE HEADER

<b>Case Status</b>	Decided (Rescript Opinion)	<b>Status Date</b>	04/01/2004
<b>Nature</b>	Superintendence, c211, s3	<b>Entry Date</b>	05/23/2002
<b>Appellant</b>		<b>Case Type</b>	Criminal
<b>Brief Status</b>	Awaiting blue brief	<b>Brief Due</b>	07/02/2002
<b>Quorum</b>	Marshall, C.J., Greaney, Ireland, Spina, Cowin, Cordy, JJ.		
<b>Argued Date</b>	03/01/2004	<b>Decision Date</b>	04/01/2004
<b>AC/SJ Number</b>	SJ-2002-0059	<b>Citation</b>	441 Mass. 1010
<b>DAR/FAR Number</b>		<b>Lower Ct Number</b>	
<b>Lower Court</b>	SJC for Suffolk County	<b>Lower Ct Judge</b>	Martha B. Sosman, J.
<b>Route to SJC</b>	Direct Entry: Appeal from Single Justice Order/Judgment		

#### INVOLVED PARTY

**Wei H. Ye**  
Pro Se Petitioner/Appellant  
Awaiting blue brief

**Commonwealth**  
Respondent/Appellee  
Awaiting red brief

#### ATTORNEY APPEARANCE

Thomas D. Ralph, A.D.A.  
Peter D'Angelo, A.D.A.

#### DOCKET ENTRIES

Entry Date	Paper	Entry Text
05/23/2002	#1	Entered. Notice to counsel.
05/23/2002	#2	MOTION to Waive Filing Fee, filed for Wei H. Ye by Wei H. Ye, Pro Se. *ALLOWED as to fee waiver only. Notice to counsel.
06/05/2002	#3	(9) copies of Appellant's appeal, filed by Wei H. Ye, Pro se. *Treating the within as filing an appeal from single justice, said filing is provisionally accepted. Appellant to advise this office forthwith if this matter is to proceed pursuant to Mass. R.A.P. or SJC Rule 2:21. Susan Mellen, Clerk. Notice sent.
06/11/2002	#4	Letter from Wei H. Ye: ...Please inform me of the proper mechanism used in these circumstances.
11/07/2002	#5	Letter from Wei H. Ye re: Case status inquiry. Response sent. Previous filings accepted as nonconforming.

12/31/2002 #6	NOTICE RE POLICY FOR EMERGENCY CANCELLATION OF COURT.
03/18/2003 #7	Letter from Wei H. Ye to inquire regarding the case status. *Response sent 3/19/03.
04/22/2003 #8	SUPPLEMENTAL CITATION Commonwealth vs. Andujar 57 Mass App Ct 529, 535-536 FN 7 (2003) filed for Wei H. Ye by Wei H. Ye, Pro se. *Referred to the quorum.
12/01/2003 #9	Request For Ruling, filed by Wei H. Ye, Pro se. *Noted. Notice sent.
01/08/2004 #10	LETTER from Commonwealth: The Commonwealth does not intend to file a brief in this matter. "The defendant's purported appeal pursuant to GL c.211, s.3, was simply a paraphrase of the issues in his appellate brief that were rejected by the Appeals Court. Accordingly the defendant's application for extraordinary relief...was appropriately denied and the defendant's appeal from the court's order is devoid of merit...."
02/05/2004 #11	LETTER from Wei H. Ye requesting status of appeal.
02/25/2004 #12	CLERK'S LETTER to Wei H. Ye informing him that the case will be submitted on his brief (no brief to be filed by the Commonwealth) to be considered by the March 2004 quorum.
03/01/2004	Submitted on brief(s). (CJM G I S C CY).
04/01/2004 #13	RESCRIPT (Rescript Opinion): Judgment affirmed. (By the Court) Reasons as on file. Notice sent.

[< Top](#)

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As of 04/14/2004 01:07



THE COMMONWEALTH OF MASSACHUSETTS  
OFFICE OF THE ATTORNEY GENERAL

ONE ASHBURTON PLACE

BOSTON, MASSACHUSETTS 02108-1598

THOMAS F. REILLY  
ATTORNEY GENERAL

(617) 727-2200  
www.ago.state.ma.us

September 13, 2004

VIA U.S. MAIL

Anthony Anastas, Clerk  
United States District Court  
United States Courthouse  
One Courthouse Way  
Boston, Massachusetts 02210

Re: ***Wei Ye v. Luis Spencer***  
**Civil Action No. 04-11590-NG**

Dear Mr. Anastas:

Please find enclosed for filing in the above-entitled action Respondent's Supplemental Appendix to Motion to Dismiss Petition for Writ of Habeas Corpus.

Thank you for your assistance in this matter.

Very truly yours,

A handwritten signature in cursive script, reading "Daniel I. Smulow".

Daniel I. Smulow  
Assistant Attorney General  
Criminal Bureau

DIS/fhs

Enclosure

cc: Stephen Hrones, Esq. (with enclosure)

